

STANDARDS COMMITTEE

Wednesday 25 April 2001
(*Morning*)

Session 1

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CONTENTS

Wednesday 25 April 2001

	Col.
LOBBYING	785
CROSS-PARTY GROUPS	797
STANDARDS COMMISSIONER	797
CONFIDENTIALITY	798
FORWARD WORK PROGRAMME	801

STANDARDS COMMITTEE

6th Meeting 2001, Session 1

CONVENER

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

DEPUTY CONVENER

*Tricia Marwick (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Lord James Douglas-Hamilton (Lothians) (Con)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Mr Kenneth Macintosh (Eastwood) (Lab)

Kay Ullrich (West of Scotland) (SNP)

*attended

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Jim Johnston

LOCATION

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 25 April 2001

(Morning)

[THE CONVENER *opened the meeting at 09:34*]

The Convener (Mr Mike Rumbles): Good morning and welcome to the sixth meeting this year of the Standards Committee. I have received apologies from Frank McAveety and Kay Ullrich.

Lobbying

The Convener: Our first item of business is our inquiry into lobbying. The clerks have prepared three issues papers. The first sets out the various policy options open to us and, by drawing on the evidence we received during the inquiry, summarises the advantages and disadvantages of each. The second paper provides some information on registration and regulation schemes in the US, Canada, Australia and the European Union. The third paper brings together some of the material we received which falls outside the remit of our inquiry but which may be of value to other bodies in the Parliament. For example, the evidence relating to the accessibility of the Parliament may be of use to the Procedures Committee's inquiry into the consultative steering group's principles. The paper asks us whether we are content to pass this evidence to the Procedures Committee, to the business team for the information of the Parliamentary Bureau and to the directorate of communications. Are members agreed?

Members indicated agreement.

The Convener: I suggest that we now focus on the other two papers on possible policy options.

Lord James Douglas-Hamilton (Lothians) (Con): I shall try to start the ball rolling. The lobbygate inquiry gave rise to the general feeling that something should be done. At the very least, commercial lobbyists should be covered by a voluntary code of conduct, although I would not object if other colleagues felt that such a code should be extended to other lobbyists. I realise that there are objections to a voluntary code of conduct that covers everyone, but it is preferable to have one voluntary code instead of a large number of different codes, to ensure that matters are clear and out in the open.

Furthermore, registration would ensure that things were out in the open and that MSPs knew

exactly who and what they were dealing with. That could be only a healthy development in a Parliament that prides itself on ready access, transparency and accountability.

The Convener: Lord James, are you suggesting that there should be registration for commercial lobbyists?

Lord James Douglas-Hamilton: Certainly for commercial lobbyists as an absolute minimum, although I would not oppose any suggestion by colleagues that it is absolutely necessary to go further than that.

Tricia Marwick (Mid Scotland and Fife) (SNP): I agree with Lord James. There should be registration of commercial lobbyists, public affairs companies, law companies with a public affairs role and indeed any organisation that is paid to represent clients. There is a difference between such commercial organisations and the voluntary sector organisations that have given evidence to us. I am not persuaded by the argument that the introduction of a registration scheme for commercial companies by the Scottish Parliament would somehow reduce the level of access for voluntary organisations and individuals who want to come to us. That has never been the aim of members of the Standards Committee. We have been committed from day one to ensuring that the Parliament is open and accessible to all and that there is no perception that some have greater access to the Parliament than others.

It is interesting that Patricia Ferguson, Lord James, you, convener, and I are present for this discussion, because much of our thinking was formed by the lobbygate inquiry that we were parachuted into in the Parliament's early days. We need to make progress on this issue. As I have said, my mind is quite clear that there is a difference between commercial companies that are paid to represent the interests of clients, and the voluntary sector and individuals. That is the distinction that we must make; and we must look to regulation and registration of commercial organisations.

The Convener: Lord James talked about registration of commercial lobbyists, but you have gone one step further and mentioned regulation. I am a little confused about whether you are supportive and on the same track as Lord James, or whether you wish to go further.

Tricia Marwick: As a minimum, we need registration. We also need a code of conduct for commercial and other organisations. That code, to which organisations should adhere, should be drawn up by the Parliament.

I understand that once organisations have gone through a registration system, the code would have to be policed in some way for it to be

enforced, but that is another issue for us to examine. As I said, at the very least, we should consider registration.

Patricia Ferguson (Glasgow Maryhill) (Lab): We should be concerned about a number of issues.

I agree, more or less, with Tricia Marwick on what we should be doing about commercial lobbyists and the voluntary sector, but I remain slightly concerned about the definition of lobbying that we apply. I understand that the lobbying organisations have come up with a slightly different definition of that term than we might have. Perhaps we should consider that point further, as it is fundamental to the rest of the discussion.

I would like organisations to register, but since the beginning of our inquiry I have changed my mind about how heavy we should be with them. At this stage, I would like us to take a fairly light-handed approach to registration. I agree with Tricia Marwick about that.

The Convener: I want to put on record my views, not only as the convener but as a member of the committee. We should consider registration of commercial lobbying organisations—people who lobby the Parliament and MSPs, for payment and for a third party—but I do not wish to go further than that. I am drawing an important distinction between commercial lobbying organisations and organisations that lobby on their own behalf. I am perfectly happy with what members have said about registration and a voluntary code of conduct, which, to be frank, should be for all lobbyists, but my personal view is that we should not go beyond that. We should take a light touch, as Patricia Ferguson said, bearing in mind the measures that we could have been discussing.

Patricia Ferguson: Convener, the phrase that you used highlighted why it is important to get the definition right. You mentioned those people who are paid to lobby the Parliament on behalf of their clients, but the lobbying organisations were of the opinion that they do not often lobby members of the Scottish Parliament. Rather, they advise their clients about the best way in which to do that. I am not sure that I agree with them 100 per cent, but we must get the definition straight. We must be careful, as we do not want to exclude people because of a loophole. That is why I mentioned the definition.

The Convener: That is a helpful comment. We need a more clear-cut definition that encompasses commercial lobbyists.

Mr Kenneth Macintosh (Eastwood) (Lab): I apologise for my late arrival. Based on what I have heard so far, I think that I am in broad agreement with all members of the committee.

I will repeat comments that I made during our previous discussion of this issue, which was held in private. We should focus on the problem, or the potential problem. Most of the evidence suggested that we are not being inundated with lobbyists who practise unscrupulously. That does not mean that we should not be on our guard, but we must put the scale of the problem into proportion. We should not try to set up a policing system, as the focus of our decision should be driven not by a few bad examples from Westminster's past but by greater transparency and openness. That approach raises a slight difficulty, as I am also in favour of a registration scheme. However, the difficulty that we came across in our evidence was that there are three types of lobbyist.

I do not think that the voluntary sector lobbyist and the professional or full-time lobbyist will have a problem accepting and endorsing any registration scheme that we come up with, but there seems to be a different group, who might be described as in-house lobbyists, who work for legal firms. We have a bit more work to do in that area, as the law firms—which are also lobbyists—treat their clients with full confidentiality. I am not worried so much about bad practice as about encouraging openness and ensuring that everyone is aware who is lobbying the Parliament and speaking to us. Our ability to catch out the bad apples will depend ultimately on MSPs' behaviour and on ensuring that we enforce our codes of conduct.

09:45

We must encourage the lobbyists to adopt greater transparency and openness, so that the public can understand who is speaking to us and how much money is being spent on lobbying for specific causes. The group that I mentioned will not fall neatly into any category and our task will be to work out how to capture them. It returns us to what Patricia Ferguson was talking about—the definition of lobbyists and their activities—and will probably involve our setting some sort of financial threshold. That would effectively be a test of their commercial involvement.

Tricia Marwick: I agree with most of Ken Macintosh's remarks. We will have enough difficulty defining lobbying, and it would be extremely difficult for the committee to enter into a further discussion about commercial tests. It is clear in my mind—perhaps we should articulate it better—that there is a distinction to be made between those who access and lobby the Parliament as individuals and organisations and those who do so on behalf of clients or enable clients to influence the parliamentary process. We should register any organisation that takes money from a third party. There is a difference between

those who work on behalf of a third party and those who have in-house parliamentary officers.

At previous meetings, we have talked about in-house parliamentary officers. If representatives of British Airways—which has a parliamentary officer—approach the Parliament's officials or MSPs, they say, "I am from BA" and give their name. The same goes for representatives of Shelter and similar organisations: we know immediately who they are. In future, they may choose to sign up to a voluntary code of conduct. However, there is a difference between those who are working for and paid by their own companies and those who are working on behalf of other companies and receiving remuneration for doing so. That is the clear dividing line that I am applying in my mind.

From the evidence that we have received, I know that the public affairs companies, lobbying consultancies and law firms run a mile from the word "lobbying". That is probably a bit of PR work on their own behalf, as they do not want to be tainted by what happened at Westminster and all the sleaze. They are trying to prove—in their minds, not in ours—that the activities that they are carrying out are not lobbying. We must embrace their concerns and define what we mean by lobbying, whether or not they accept that trying to influence the Parliament, although they are not speaking directly to MSPs, is lobbying. We must be very clear about what we mean by lobbying, which may not be their definition.

Mr Macintosh: I hear what Tricia Marwick says and I appreciate that there is a distinction between in-house lobbyists and those who hire companies to do lobbying for them, but we should not treat them differently. British Airways is big enough to employ an in-house lobbying organisation or public relations operation and can lobby whenever it wants, but a smaller company has just as much right to lobby us on a commercial matter or on an issue in which it has a commercial interest as British Airways, even though it might not be big enough to support an in-house PR operation. There is nothing wrong with such a company employing a PR firm to lobby on its behalf. We should be clear that a company that employs a full-time professional lobbyist is neither better nor worse than one that has an in-house lobbyist.

The difficulty is that a firm that hires a firm of lobbyists or has an in-house lobbying department might not wish to register, as they think that they do not spend any time lobbying the Scottish Parliament. They might have a general contract with a lobbying firm to raise awareness of the company, for example. We should ensure that our net is wide enough to ensure that such companies are included in the register so that their activity in relation to the Parliament is known to us and to the

public. This is where the matter becomes difficult. As the paper makes clear, if the qualifying criterion is that 20 per cent of a firm's activity must be spent on lobbying, many firms will claim that that does not include them. That is why we might be better off using a financial threshold and requiring companies to estimate how much money they spend on lobbying the Parliament, including spending on mailshots and somebody's time.

More work needs to be done on this area; it is not as simple as it might seem.

The Convener: I understand that there is quite a distinction between the two sorts of organisation that you mention. I would prefer to move away from having a financial threshold because the in-house lobbying organisation of a company such as British Airways is solely concerned with that company. In my experience of lobbyists, it is quite clear which ones are from an in-house organisation. There is a distinct difference between that situation and one in which there is a firm that has been set up even partly for the purpose of lobbying for others for a fee. I think that there is a difference between the two.

Patricia Ferguson: I was going to say something similar, convener. We should draw a distinction between in-house lobbyists and people who are lobbying for a third party, although we should be clear about the fact that we still want to know who they are.

Kenneth Macintosh's proposal could lead to further difficulties, as the threshold is difficult to place regardless of whether it is a time threshold or a money threshold. It becomes particularly difficult to monitor such a threshold in relation to companies who have in-house lobbying departments. If someone is paying someone else to do a job, it is much easier to follow that through their accounts; if they are paying for a job from within their own resources, the expenditure is harder to define. Frankly, I do not mind whether the companies are spending £1 or £100,000; I want to know who they are and what they are doing. I want them all to be registered and I do not want there to be any threshold.

The Convener: Are you talking about statutory registration or voluntary registration?

Patricia Ferguson: Statutory registration.

Lord James Douglas-Hamilton: I agree with Patricia Ferguson that definitions should be clear and beyond doubt, as that makes enforceability much more straightforward.

We obviously want to catch cases where there is a definite commercial element. I agree with Patricia Ferguson that thresholds are too cumbersome and difficult to apply. Where there is a commercial element, it does not matter what the

size of the company is. Those concerns should be caught by the provisions.

One of the advice papers touches on how to work up a voluntary code. It would be desirable to have further consultation and co-operation with umbrella organisations on moving to a voluntary code. It seems that the committee could give guidance on what the essential elements of a voluntary code should be. Although I think that I am correct in saying that we do not have the legal powers to enforce a voluntary code, if one were worked up we could give guidance. The clerks should draft proposals on that. The proposals could address whether guidance should include any elements relating to discipline and sanctions. If the umbrella organisations signed up to a voluntary code, it would carry much weight and would be generally accepted.

Mr Macintosh: I think that it matters whether someone spends £1 or £100,000 on lobbying the Parliament. It does not matter whether the lobbyist is a professional lobbying company or an in-house lobbying group. We are all aware that there is a distinction between those who lobby with a commercial interest and others who lobby for different reasons.

There is nothing wrong with lobbying—there is nothing wrong with British Airways lobbying as long as it is clear and above board and everybody knows what is being done. The transparency argument is the most important. It is not about policing and catching wrongdoers and identifying different lobbying companies. Convener, you see a difference between an in-house lobbying group and a lobbying company that might act on behalf of different clients. I do not see a difficulty, so long as whoever is lobbying makes it clear on whose behalf they are lobbying. I have no problem with a professional company lobbying on behalf of several people so long as it makes it clear for whom it is working.

We want to encourage people looking at the Parliament to be aware of who is lobbying and how much money they are spending. We do not want to put people off: we just want to make people aware of the sums of money that are being spent on lobbying in certain areas. That is the sort of openness that we should encourage. A list of commercial lobbyists—the individuals who lobby for a living—does not take us anywhere. All it does is identify a group of people who lobby for a living. That may have the effect of saying that they are the professional lobbyists and encourage people to go to them if they want a good job, whereas we might wish to encourage people to lobby us directly.

I do not quite agree with where the committee is heading on this. I agree that there should be registration. It is important that the committee and

the Parliament generally set a high standard here. Openness and transparency are principles on which the Parliament is founded. We should continue to lead the way for other Parliaments around the world—we are a different kind of Parliament, which conducts its affairs in public and openly for all to see. I am not sure that what is suggested is the right way to go.

The Convener: I agree entirely that openness and transparency are extremely important—they are among the fundamental considerations. Kenneth Macintosh is right that there is nothing wrong with lobbying if it is done properly. It should be encouraged, as we want to know people's views—there are helpful organisations in both the voluntary and commercial sectors. We are all interested in transparency and openness and want to know who is lobbying. There is no difficulty with voluntary organisations that lobby for themselves because, in getting across their points of view, they want to identify their organisation to you. The difficulty arises with commercial operations, because they work for a third party. They lack transparency and openness, which worries committee members.

Patricia Ferguson: You are right about transparency. The lack of transparency in one instance triggered off our involvement in the issue. However, I think that we and Ken Macintosh are speaking at cross-purposes.

10:00

Mr Macintosh: That is because I arrived late.

Patricia Ferguson: No, it is not. I think that we just misunderstood each other. Neither I nor anyone else is saying that we are not interested in how much is being spent. We are saying that we should not establish a minimum level at which bodies must register; if organisations spend any money lobbying members of the Parliament, they should have to register.

I am making this up as I go along, so my proposals are not written on stone tablets, but I hope that the register would include the name of the person or organisation that was lobbying, the organisation on behalf of which the lobbying was being conducted, the subject on which they were lobbying, who they were lobbying and how much they were spending to do that. I do not want a threshold to be set to register only those who spend more than £5,000, for example. I want everyone to be registered and I want to know how much is being spent.

Mr Macintosh: That is interesting. I agree with the idea that everyone should be registered, but that returns us to the barrier argument that voluntary groups specifically raised with us.

The Convener: We do not want to go off on a tangent. We have all agreed that we are focusing only on commercial organisations that lobby or interact for a third party.

Mr Macintosh: That is why I disagree, because I do not consider that in-house companies lobby for a third party—they lobby on their own behalf. The distinction is false and will fail because many voluntary groups are, in a sense, professional lobbyists. The Scottish Council for Voluntary Organisations, which gave evidence, employs someone full time with pay to lobby Parliament. Would such a person be included in the category that you described?

The Convener: No. There is confusion here. Such people are expressly excluded from our discussion. I am not sure whether you were present when we discussed that at the beginning of the meeting. We are focusing on organisations that lobby or interact with the Parliament on a commercial basis for a third party. Voluntary organisations that employ in-house staff are in a transparent situation. Those staff promote the organisation for which they work, and committee members are not concerned about that situation.

Mr Macintosh: The SCVO is an umbrella organisation and lobbies on behalf of its member voluntary groups. It is the voluntary sector equivalent of a professional lobbying company.

Tricia Marwick: I am fairly relaxed about the idea of registering organisations that lobby for themselves. We are considering two issues. The first is requiring commercial organisations that lobby the Parliament to register in the way that Patricia Ferguson described. Even though she made it up as she went along, she had some wise words.

We are also considering whether the Parliament should draw up a code of conduct to which other individuals and organisations such as the SCVO or voluntary groups might sign up if they wished. I was struck by the evidence from the Scottish Trades Union Congress that it would welcome such a code. We should not prevent people or organisations from saying, "We regularly lobby the Scottish Parliament. We will abide by the code of conduct. If we do bad things, let us know." There is a difference between the code of conduct to which we would expect most organisations to sign up and the registration process.

The Convener: You put the position succinctly. We are considering two elements. I will summarise what was said, for clarity. We are considering registration for organisations that operate for a third party. If an organisation decided that it wanted to do that, it would fall under the umbrella for registration.

Tricia Marwick: The added advantage of the code of conduct is that it would nail the myth that the Parliament is trying to create a two-tier system. It has been suggested that by registering commercial lobbying organisations we are somehow giving them an elite status that other organisations would not have and that by requiring commercial organisations to register we are implying that they have more influence than other groups that are not registered. The code of conduct that we draw up, to which anyone can sign up, will destroy that myth once and for all.

Mr Macintosh: I hesitate to say that we are in agreement—I sympathise with what Tricia Marwick is saying and I agree with the intention. However, I have doubts about whether we are getting it right. The proposal assumes that we can divide everyone neatly into commercial lobbyists and others. I am not entirely convinced by that argument. Many voluntary sector organisations employ commercial lobbyists. Although a register of commercial lobbyists might be useful, what would be far more useful to me—and to other people—is a list of who is doing the lobbying. I am interested not in the lobbyists, but in the companies behind them. For those purposes, a list of commercial lobbyists is not satisfactory.

The Convener: There are puzzled faces around the committee table because there seems to be a misunderstanding. That is precisely what we are suggesting.

Mr Macintosh: Well—

Tricia Marwick: Perhaps Patricia Ferguson could repeat her comments.

Patricia Ferguson: The registration would consist of: the name of the lobbying company or individual; the organisation on whose behalf they were lobbying; the subject on which they were lobbying; whether they were lobbying a particular category of MSPs—for example, they might be lobbying only members of the Social Justice Committee on the Housing (Scotland) Bill—and how much they were spending on behalf of their clients. That would cover a voluntary organisation that was employing a commercial lobbyist.

The distinction that we are trying to make is between the registration process for those groups and what would be appropriate for organisations such as the STUC that do everything themselves and would never in a month of Sundays have anything like the kind of money one would need to employ a lobbyist even for an hour—such organisations would be encouraged to sign up to the code of conduct. We all know who we can access in the STUC, who its members are and on whose behalf it would be lobbying. Similarly, we all know who the members of the SCVO are; we can find that out easily.

The Convener: The Standards Committee has always proceeded on the basis of consensus. We are trying to ensure that everyone is on board.

Mr Macintosh: I agree with everything that Patricia Ferguson has just said. I also appreciate the intentions behind the suggestion. I still have some reservations, but we can move forward on that basis.

Lord James Douglas-Hamilton: A secretary of a charity writing to MSPs would not be covered, so there is a clear distinction in relation to the commercial element.

Mr Macintosh: Indeed.

Lord James Douglas-Hamilton: The legal advice that we were given was that the current remit would not allow us to

“develop specific proposals or become involved in the application and enforcement of either the statutory regulation of lobbyists or a voluntary code.”

However, we can make recommendations for legislation or for parliamentary approval, so the arrangements that we propose would be subject to review. If any of Kenneth Macintosh’s worries proved well-founded, the matter would come back to the committee and we could make appropriate recommendations in the event of any abuse.

The Convener: Lord James is right in referring to the legal advice. A statutory registration process of a third party or a commercial lobbyist—however we want to define it—is outwith the remit of the committee. However, we can produce a report, which would be laid before Parliament. It is for Parliament to decide how to proceed, based on the recommendations of the committee. That is the appropriate route.

I suggest that we task the clerks to work towards producing a draft report for us, although—as the clerk has just reminded me—I should first ask whether we wish to take further oral evidence or proceed to a conclusion.

Lord James Douglas-Hamilton: It will be necessary at a later stage to consult or take evidence on the form of the voluntary code. The umbrella organisations will want to input their views. We can decide on the form of that later.

The Convener: We could task the clerks to start work on the draft report but—now that we know that we want to proceed down this route—we can invite organisations to give evidence to us on the format of a voluntary code, if that is what members want.

Patricia Ferguson: I would like us to consider the basic principles that the voluntary code should cover before we start discussing them with outside bodies.

The Convener: I have just been getting some good advice from the clerks. At this stage, rather than producing a draft report, the clerks will draw up an issues paper for our consideration.

Patricia Ferguson: I have a further point about lobbying, although it is perhaps a side issue. I was struck by two things that were said in evidence. One was the comment made by the STUC, I think, that the task of giving evidence to and meeting members of the Parliament and the Executive was a welcome burden for an organisation of such a size and with such a financial capability. However, there must be organisations who find giving evidence even more of a burden than the STUC does, given that the STUC’s membership is fairly skilled and professionally long in the tooth.

I also noticed that the state of New York has produced a citizens guide to lobbying, to help members of the public to get their thoughts and ideas across to politicians. I do not think that we want to produce a citizens guide to lobbying, as the word “lobbying” has become tarnished over recent months. However, we could ask the parliamentary authorities to consider providing a document with a similar aim but a more welcoming title. In our evidence taking, we found that accessibility has been welcomed but that we could do more to encourage it.

The Convener: That is a good suggestion.

Mr Macintosh: You mentioned the idea of publishing a guidance note for lobbying companies and for the voluntary sector. I assume that that will form part of the issues paper.

The Convener: Absolutely—I am sure that we can also consider that. Are members content with the suggestions on how we should proceed? If so, we will task the clerks to proceed with an issues paper.

Members indicated agreement.

Cross-party Groups

The Convener: Our next item is on cross-party groups.

Lord James Douglas-Hamilton: I suggest that we approve the recommendation to establish a cross-party group on chronic pain. The matter has been thoroughly investigated. There is clearly a need and strong desire for such a group to be established.

The Convener: Do members agree to the recommendation?

Members *indicated agreement.*

Standards Commissioner

The Convener: Item 3 relates to our proposals to establish a standards commissioner. We are asked to consider a draft motion for debating our proposed committee bill. Everyone has the draft motion in front of them. Are members content with it?

Members *indicated agreement.*

The Convener: The debate will be taken around 17 May, but the date is yet to be decided.

Confidentiality

The Convener: Item 4 relates to our proposed inquiry into confidentiality. Members will have seen the issues paper on the matter, which sets out some of the areas that we might wish to consider. It asks us to consider the format of the inquiry. I would like to hear members' comments on the paper and their views on how we might proceed.

Mr Macintosh: I found the paper quite useful. The most practical part of it was the bit about handling committee papers. That is a relatively mundane part of the paper, but it is probably one of the more important parts, because it includes more on how we handle committee papers at present, and on how they are identified and circulated. Physical copies of papers can be identified. There was an example recently of somebody from outside a committee having a physical copy of a leaked report. Such things could be prevented by a system of identification.

10:15

Lord James Douglas-Hamilton: Paragraph 11 of the paper states:

"At present the remit of the Standards Committee would preclude it asking parliamentary staff whether they had leaked the report."

If there was an investigation—I think that investigations should be few and far between—I do not think that parliamentary staff should be excluded from being asked questions.

The Convener: I am advised that any investigation of staff would be conducted by other people. However, Lord James is right to draw attention to that point, which I also wanted to raise. The committee, the standards adviser and the commissioner—when we get one—will have the power to make investigations almost anywhere, which leads to confusion in paragraph 11. I think that the clerks are referring to any investigation of members of staff, whereas the committee is referring to the powers to request people to come and give evidence to us. There was confusion about that point.

Mr Macintosh: I agree that supplying the media in advance with embargoed copies is a good method of subverting the possibility of leaks. If documents are made available to all newspapers and media sources in advance, the temptation to scoop is avoided.

The Convener: That is a very good point.

Patricia Ferguson: Staff were mentioned. My understanding is that, if there had to be an investigation into the conduct of parliamentary staff, that would be within the remit of the clerk of

the Parliament, in his capacity as the chief executive of the Parliament and the employer of Parliamentary staff. What would happen if there was a suggestion that a member of an MSP's staff had been involved? We came across that difficulty previously when discussing the code of conduct for MSPs' staff. MSPs' staff are really responsible to no one except the individual MSP for whom they work. How would we gain the co-operation of those individuals, if it came to that? I hope that it never would, but I wonder how we would handle things if we had to go down that road. I know that the committee can ask people to come before it, but we do not really have any sanction or means of encouraging them to co-operate.

The Convener: That is correct. The sanction would be against the individual member who employed that member of staff. Our focus is clearly and quite rightly on members of the Scottish Parliament and should remain there. Lord James Douglas-Hamilton identified the confusion and slight misunderstanding about paragraph 11. The clerks are talking about an investigation of a member of parliamentary staff, which would not be our task.

Patricia Ferguson's question focuses on members of staff who are paid through MSPs' parliamentary allowances, but we must focus on MSPs. When dealing with the draft bill on the standards commissioner we can make clear exactly what the remit should be.

I ask members to comment on paragraph 10, which states:

"The Committee may consider that the current procedure is both costly and time-consuming. An alternative approach could be that adopted by select committees in the House of Commons. Following a 'leak', it is the select committee whose report has been disclosed which conducts an initial investigation in an attempt to discover the source of the leak, by formally asking in public and on the record all members of the committee and the committee's staff if they can explain how the leak came about."

That is what they do in the House of Commons, and I have just been informed that they are also going down that road in Canada. What do members think of that proposal?

Tricia Marwick: I have read the paper, which is wide ranging, and there are a number of issues that we must consider carefully. In the light of that, could we delay further consideration until next week, and conclude our discussion then?

The Convener: Would members prefer more time to consider the issue thoroughly?

Tricia Marwick: That would be helpful.

The Convener: We can delay that until our next meeting, which will be in a fortnight.

Lord James Douglas-Hamilton: I have no objection to that. There is no harm in the proposal in paragraph 10. Most leaks are deliberate. Not everybody who commits the misdemeanour owns up to it, and often the culprit is not found. However, a public challenge of the nature that has been described can do no harm, because there are occasions on which there are misunderstandings, which would come to the surface and save a lot of administrative time and the unnecessary use of the committee's time.

The Convener: That is a good point. The proposed action would ensure that everybody was clear and that there was no misunderstanding on the part of committee members before the standards adviser—or, in future, the standards commissioner—launched an investigation. If members are happy, we will defer discussion of the matter, as Tricia Marwick suggested, until our next meeting in a fortnight's time.

Forward Work Programme

The Convener: Our final item is the committee's forward work programme. Members have before them a paper, which sets out the areas of business that we must tackle over the coming six months. A provisional schedule of meetings is also attached.

There are a number of issues. Do members have any comments? Obviously, it is taken as read that on 9 May we will include the agenda item that we have just discussed. I ask members to cast their eyes down the forward work programme. The clerks and I would appreciate any guidance that members can give us. If members are content with the programme, we would like to know.

Patricia Ferguson: One of the dates that we have listed for a meeting is Wednesday 6 June, which I suspect might be the day before the general election—but then again, you never know. I am conscious of the fact that we are due to hear the standards adviser on inquiries that he might undertake. Given that we wish to address such matters as quickly as we can and get them out of the way, for various reasons that we have discussed before, we might wish to timetable a meeting before then. I do not want to push the standards adviser to come forward before he is ready, but we might want to flag up to him that that meeting will probably be a lighter meeting than normal. We might wish to make it clear that it would be good to get his report before then.

The Convener: Are you suggesting that we remove the meeting on 6 June from the timetable?

Patricia Ferguson: No. I am just concerned about—as we discussed before—how important it is that members know which way we are going, if there is an allegation against them. It would therefore be good to get the issue out of the way.

The Convener: My advice is that members can be briefed individually on the matter.

Lord James Douglas-Hamilton: Could the matter be reviewed when an announcement is made about the date of the election? If the day of the election is around the time of one of the meeting dates, it would make sense to shift the date to another Wednesday.

The Convener: We will, at our next meeting in two weeks, review the issue in the light of circumstances.

Meeting closed at 10:25.

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